(7)

(3)

Division Bench

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH
BILASPUR

M.A.(C) NO. 278 /2007

APPELLANTS

1. Gharbharan son of Budhu Ram, caste Kumhar, aged about 50 years,

2. Smt. Jagmohan Bai, wife of Gharbharan, caste Kumha, aged about 45 years,

Both are resident of village Ramnagar, Tahsil Surajpur, District Surguja (C.G.)

P.R. No. ... Presented by Shri ... on 22/2/07

VERSUS

RESPONDENTS

1. Basant son of Aniruddh, aged about 40 years, resident of village Juna Karkoli, P.S. Bhaiyathan, District Surguja (C.G.) (Owner of the Tractor & Trolley No. CG 15A/0523, CG 15A/0524)

2. Saijnath aged about 20 years, son of Shri Ram Sai Gond, resident of village Ramnagar, P.S. Vishrampur, Tahsil Surajpur, District Surguja (C.G.) (Driver of the Tractor & Trolley No. CG 15A/0523, CG 15A/0524)

3. The New India Insurance Company Limited, through – the Branch Manager, Raigarh, Distt.

(4)

2 (8)

Raigarh (C.G.) (Insurer of the Tractor & Trolley No. CG 15A/0523, CG 15A/0524)

MISCELLANEOUS APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLE ACT, 1988

(19)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 278 OF 2007

APPELLANTS Gharbharan & Another

Versus

RESPONDENTS Basant & Others

Present : Shri Sushil Dubey, counsel for the appellants.
None for the respondents.

ORAL ORDER
(Passed on 28th February, 2007)

The following oral order of the Court was passed by **Vijay Kumar Shrivastava, J.**

On 6-5-2005, respondent No.2 was driving tractor bearing registration No.CG-15-A-0523 attached with trolley bearing registration No.CG-15-A-0524 (*for short "the offending vehicle"*). Ammalal (since deceased) and other persons were sitting in the tractor. As a result of rash and negligent driving, deceased fell down from the tractor and came under the wheel of tractor. Deceased sustained injuries and succumbed to those on the spot. Appellants/claimants, who are the parents of the deceased, filed an application under Section 166 of the Motor Vehicles Act, 1988 (*for short "the Act, 1988"*) against all the respondents, who are owner, driver and insurer of the offending vehicle. Respondents contested the claim. First Additional Motor Accident Claims Tribunal, Surajpur (*for short "the Tribunal"*) after due enquiry passed the impugned award dated 31-1-2007 in claim case No.110/05 allowed a compensation of Rs.1,89,500/- in favour of the appellants. Feeling aggrieved the appellants have filed this appeal

under Section 173 of the Act, 1988 for enhancement of the compensation amount.

2) Learned counsel for the appellants contended that the Tribunal erred in allowing just and proper compensation.

3) We have gone through the award. Undisputedly the deceased was aged 17-18 years who was studying in class X. He was not an earning member, yet the Tribunal considering his assistance available to the family allowed notional income of Rs.1,500/- per month and after reducing 1/3rd towards his own expenses recorded loss of income Rs.1,000/- per month, accordingly, annual dependency was Rs.12,000/-. Learned Tribunal applying correct multiplier of 15 allowed a sum of Rs.1,80,000/- towards loss of dependency, Rs.2,000/- towards funeral expenses, Rs.2,500/- towards loss of estate and Rs.5,000/- towards love & affection. Finding of facts recorded by the Tribunal does not appear to be perverse or illegal. We are of the considered opinion that the Tribunal has allowed just and reasonable compensation and that cannot be condemned on any ground.

4) In the result, the appeal being devoid of substance deserves to be dismissed and is accordingly dismissed. No costs.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge